

**OCT 05 2007**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

PAUL WILLIAM JENSEN,

Plaintiff - Appellant,

v.

M. E. KNOWLES, Warden; et al.,

Defendants - Appellees.

No. 05-16652

D.C. No. CV-01-00723-JKS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
James K. Singleton, Chief Judge, Presiding

Submitted September 24, 2007<sup>\*\*</sup>

Before: CANBY, TASHIMA and RAWLINSON, Circuit Judges.

Paul William Jensen, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

prison officials violated his constitutional rights. We review de novo, *Barnett v. Centoni*, 31 F.3d 813, 815 (9th Cir. 1994) (per curiam), and we affirm.

The district court properly granted summary judgment to the defendants on Jensen's excessive force claim because Jensen failed to raise a genuine issue of material fact regarding whether force was applied in a good faith effort to maintain or restore discipline. *See Hudson v. McMillian*, 505 U.S. 1, 7 (1992) (explaining that "the core judicial inquiry is . . . whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm"). Moreover, Jensen's conclusory allegations that prison officials conspired against him and failed to respond to his complaints about the alleged excessive force were insufficient to create a triable issue. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (explaining that unsupported conclusory allegations are insufficient to preclude summary judgment); *see also Woodrum v. Woodward County*, 866 F.2d 1121, 1126 (9th Cir. 1989) (dismissing conspiracy allegations because they were unsupported by material facts).

The district court properly granted summary judgment on Jensen's claims regarding his work classification and placement into administrative segregation because Jensen did not have a protected liberty interest in participating in a work program, and administrative segregation in itself does not implicate a protected

liberty interest. *See Toussaint v. McCarthy*, 801 F.2d 1080, 1094-95 (9th Cir. 1986) (explaining that inmates have no liberty interest in work programs); *Serrano v. Francis*, 345 F.3d 1071, 1078 (9th Cir. 2003) (“[A]dministrative segregation in and of itself does not implicate a protected liberty interest.”) (citing *Sandin v. Connor*, 515 U.S. 472, 486 (1995)). Moreover, Jensen alleged no facts indicating that the conditions of segregation constituted an “atypical and significant hardship on [him] in relation to the ordinary incidents of prison life.” *Sandin*, 515 U.S. at 484.

Jensen’s unsupported allegation that he was placed in administrative segregation for filing a grievance was insufficient to controvert defendants’ evidence that he was placed in administrative segregation as a protective measure while his complaints were being investigated. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (to establish retaliation claim prisoner must show that he was retaliated against for exercising his constitutional rights and the retaliatory action did not advance legitimate penological goals).

The district court properly dismissed, as frivolous, Jensen’s allegations that defendant Savage made insulting statements about him, because verbal harassment is insufficient to state a claim under section 1983. *See Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987) (concluding that verbal harassment or abuse

does not rise to the level of a constitutional deprivation). Jensen's allegations that defendant Ramely verbally assaulted him were equally frivolous. *See id.*

Finally, the district court properly dismissed, without prejudice, Jensen's request for good-time credits because that request must be made in a habeas corpus proceeding. *See Preiser v. Rodriguez*, 411 U.S. 475, 490 (1973) (holding that habeas petition is appropriate to attack fact or length of confinement).

Jensen's remaining contentions are unpersuasive.

**AFFIRMED.**